

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – JULY 21, 2004**

City Council and Redevelopment Agency Action

At 6:00 p.m., City Clerk/Agency Secretary Torrez announced that the Council/Redevelopment Agency would not be meeting in closed session this evening and that the Council would be convening the meeting at 7:00 p.m.

CLOSED SESSIONS:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	4

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 7:00 p.m.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Charles Cameron, Library Commissioner, led the Pledge of Allegiance.

ROLL CALL ATTENDANCE

Present:	Council/Agency Members Carr, Chang, Tate and Mayor/Chairman Kennedy
Late:	Council/Agency Member Sellers

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

PRESENTATIONS

Mayor Kennedy presented Frank Dutra, Advanced Machining Technologies and Charlene McIntosh, Comcast Cable, with Certificates of Recognition for attaining Green Business status and for their exemplary efforts in protecting the environment. In attendance was Gretchen Hefner of the Santa Clara County Green Business Program.

Mayor Pro Tempore Sellers entered and was seated.

CITY COUNCIL REPORT

Council Member Carr reported on the South County Regional Wastewater Authority (SCRWA), indicating that the City shares a wastewater treatment plant with the City of Gilroy. He noted that this facility recently celebrated a 20-year anniversary and that three employees working for this facility since its beginning were honored. He said that further discussions/actions will be undertaken regarding the facility's future needs. He said that SCRWA is working with the Regional Water Quality Control Board on some issues. He reported on the Economic Development Subcommittee. He stated that the Subcommittee is working on a couple of different items. He indicated that the Subcommittee will be returning to the Council with a recommendation on ways to address economic inhibitors, including changes that can be made to some of the City's policies that may be inhibitors to economic development. Another task given by the Council to this Subcommittee is the Walnut Grove PUD. He stated that the Subcommittee requested that the Planning Commission send a representative to attend the meetings to talk about a possible role for the Commission with the PUD. He said that a Planning Commissioner has met with the Subcommittee the past few meetings to talk about what role the Planning Commission should play in a City-sponsored PUD. He indicated that the Subcommittee has come up with a process, and that the City-sponsored PUD can now go before the Planning Commission in order to begin its discussions, community dialogue, and the framework for the PUD. He noted that this is a unique process for the City to initiate in the development of a PUD.

CITY MANAGER REPORT

City Manager Tewes noted that the City honored two green businesses. He said that one of things that allows a business to attain green business certification is water conservation. He stated that water conservation is more important now than ever, given the limitation of the City's domestic water supply, as some of the domestic wells are affected by the perchlorate contamination. As the City is at the hottest part of the summer and fire danger, he stated that the City needs to make sure that it has fire reserves available in its water system. It is staff's hope that citizens will think water conservation. He indicated that there are several water conservation tips on the City's website and that staff will be returning to the Council soon with more ideas on water conservation programs.

CITY ATTORNEY REPORT

City Attorney Leichter indicated that she did not have a report to present this evening.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda. No comments were offered.

City Council Action

CONSENT CALENDAR:

Mayor Kennedy indicated that items 2 and 9 will be pulled from the Consent Calendar and tabled. It was his understanding that they will be rescheduled for a future meeting date.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1, 3-8, and 10-13 as follows:*

1. **SANTA CLARA COUNTY CITIES ASSOCIATION'S (SCCCA) JOINT ECONOMIC DEVELOPMENT POLICY COMMITTEE**

Action: 1) **Approved** the SCCCA's Formation of a New Standing Committee Called the Joint Economic Development Policy Committee (JEDPC); and 2) **Ratified** the Appointment of Mayor Kennedy to Represent the City on the JEDPC.

3. **AMENDMENT TO AGREEMENT FOR LAND USE PLANNING CONSULTANT SERVICES**

Action: **Approved** Amendment to Contract.

4. **FINAL MAP APPROVAL FOR TUSCANY MEADOWS (TRACT 9500)**

Action: 1) **Approved** the Final Map, Subdivision Agreement and Improvement Plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

5. **LOT LINE ADJUSTMENT PARCEL MAP APPROVAL FOR SOUTH VALLEY DEVELOPERS, INC.**

Action: 1) **Approved** the Lot Line Adjustment Parcel Map, Including the Abandonment of a Storm Drain Easement and Reciprocal Ingress, Egress and Public Service Easement on the Property; and 2) **Authorized** the Recordation of the Map.

6. **AWARD OF PROFESSIONAL SERVICES CONTRACT FOR CONSTRUCTION INSPECTION SERVICES FOR THE 2003-2004 STREET RESURFACING PROGRAM**

Action: **Authorized** the City Manager to Execute a Consultant Agreement for Construction Inspection Services for the 2003-2004 Street Resurfacing Program with Harris and Associates for a Cost Not to Exceed \$32,310, Subject to Review and Approval by City Attorney.

7. **AWARD CONTRACT FOR ANNUAL ASPHALT MAINTENANCE**

Action: **Awarded** Contract to Granite Construction Company for the Annual Asphalt Maintenance in the Amount of \$37,600, Subject to Review and Approval by the City Attorney.

8. **APPROVE PURCHASE ORDER FOR THE REPAIR AND REPLACEMENT OF METAL BEAM GUARDRAILS**
*Action: **Approved** Purchase Order to Chavez Fence Company for the Repair and Replacement of Metal Beam Guardrails in the Amount of \$22,150.*
10. **ADOPT ORDINANCE NO. 1686, NEW SERIES**
*Action: **Waived** the Reading, and **Adopted** Ordinance No. 1686, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO DEVELOPMENT AGREEMENT, DA-03-11 TO INCORPORATE CHANGES IN THE ALLOCATIONS AND THE PHASING OF THE PROJECT FOR APPLICATION MP 02-07: CORY-SAN PEDRO PARTNERS (APN 817-11-061).***
11. **ADOPT ORDINANCE NO. 1688, NEW SERIES**
*Action: **Waived** the Reading, and **Adopted** Ordinance No. 1688, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE PRECISE DEVELOPMENT PLAN APPROVED UNDER ORDINANCE NO. 1546, NEW SERIES, FOR THE TENNANT STATION SHOPPING CENTER LOCATED IN THE PUD DISTRICT ON THE SOUTHEAST CORNER OF THE INTERSECTION OF MONTEREY ROAD AND TENNANT AVENUE (APN's 817-06-039, 040 & 41).***
12. **MINUTES FOR SPECIAL CITY COUNCIL MEETING OF JULY 5, 2004**
*Action: **Approved** the Minutes as written.*
13. **MINUTES FOR SPECIAL CITY COUNCIL MEETING OF JULY 7, 2004**
*Action: **Approved** the Minutes as written.*
2. **ACCEPTANCE OF THE CITY OF MORGAN HILL POLICE FACILITY PROJECT**
*Action: On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Tabled** this item.*
9. **ADOPT ORDINANCE NO. 1685, NEW SERIES**
*Action: On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Tabled** this item.*

Mayor Kennedy noted that it was not yet 7:30 p.m. at which time the Council considers public hearing items.

***Action:** It was the consensus of the Council **to consider** items 19 and 20 at this time; followed by item 22.*

City Council Action

OTHER BUSINESS:

19. APPROVAL OF THE MITIGATION MONITORING AND REPORTING PLAN FOR THE INSTITUTE GOLF COURSE.

City Manager Tewes informed the Council that items 19 and 20 are related to the Institute Golf Course. He indicated that the Council has a request from the applicant that they be given the opportunity to review the mitigation monitoring plan and are, therefore, requesting that this matter be continued to a future date.

Mayor Pro Tempore Sellers stated that unless staff or the applicant believe that there is a problem to consider both items together, he felt that it made sense to schedule both agenda items for the Council's August 18, 2004 meeting.

City Attorney Leichter informed the Council that the City cannot approve the ordinance until the CEQA process has been finalized as listed under Item 19, the mitigation monitoring plan. Therefore, the adoption of the ordinance needs to follow the adoption of the mitigation monitoring and reporting plan.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Continued** this item to August 18, 2004.*

20. ADOPT ZONING AMENDMENT ORDINANCE NO. 1687, NEW SERIES

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Continued** this item to August 18, 2004.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

22. EXTENSION OF EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT (ERN) WITH EL TORO BREWING

Director of Business Assistance and Housing Services Toy presented the staff report. He informed the Council that El Toro Brewing has met all requirements of the scheduled performance with the exception of securing financing. He stated that the applicant has indicated that he has submitted an application to Heritage Bank but that this bank has been undergoing personnel restructuring. Therefore, this places El Toro Brewing still at the loan application process. He indicated that the Economic Development Subcommittee (EDS) and staff have met and are recommending a 90-day extension to the exclusive right to negotiate under certain conditions: 1) the existing \$20,000 good faith deposit become non-refundable and would be applied toward the purchase price. He informed the Council that El Toro

Brewing has requested that in the event that they are unable to obtain construction financing, that they be allowed to discuss other financing options with the Agency prior to terminating the agreement and losing the \$20,000 as a non-refundable deposit. Mr. Toy stated that the EDS and staff approached El Toro Brewing to ask for an additional good faith deposit as a condition of the extension. El Toro Brewing stated that this would create a financial hardship since it would tie up the resources they needed to complete the design work necessary for the project. Further, since they are a small family run business, it would place an unnecessary hardship on their finances. 2) El Toro Brewing agrees to accept the property as is and to indemnify the Agency against any future adverse conditions. 3) Purchase price to be \$650,000. 4) El Toro Brewing will obtain ARB approval by October 20, 2004. Mr. Toy noted that these conditions are all within the recommended 90-day extension period. He stated that El Toro has stated that they would start talking to other lenders. He indicated that a requirement of the new exclusive right to negotiate requires that El Toro Brewing obtain preliminary financing within 45-days and funding commitment within 90-days. He clarified that the 90-day extension would not add time to the original process. He informed the Council/Agency Board that the applicant believes these terms were reasonable ones.

Mayor/Chairman Kennedy opened the floor to public comment. No comments were offered.

It was noted that Mr. Acevedo was not in attendance at this time and that, should Mr. Acevedo or his representative show up, the Council/Agency Board could reconsider the item.

Mayor Pro Tempore/Vice-chair Sellers noted that the Council/Agency Board selected El Toro Brewing because it was the best financial deal for the City. He indicated that there was concern raised by the other applicant that they could not match El Toro Brewing's proposal because they could not come up with a financing option. In reading El Toro Brewing's letter, he understands that it is perceived to be an administrative issue caused by the restructuring of the bank's organization that caused the applicant to be unable to process the loan. He expressed concern that if the entity is not able to receive financing, it could add three months in delay. He stated that he would be willing to move forward with the proposal before the Council/Agency Board this evening. However, should El Toro Brewing be turned down by a financial institute, it would be important that this be revisited by the Council/Agency Board, even if it is before the 90 days. If the City will be in a situation where the terms are changing, he felt that this needs to come back to the Council/Agency Board in order to consider whether or not to capitulate and/or change the terms and whether to continue to consider the exclusive right to negotiate. He felt that it was important that the City not wait 90-days and not assume that things will move along smoothly. He requested that this item be brought back to the Council/Agency Board if it turns out that the financial institutions are declining to participate.

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Chang, the City Council/Agency Board unanimously (5-0) **Authorized** the Executive Director to Prepare and Negotiate a 90-day Extension to the ERN with El Toro Brewing, Subject to Agency General Counsel Review.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Council Member Chang indicated that the Regional Water Quality Control Board would be considering the South County Regional Wastewater Authority's permit on September 10, 2004. She indicated that the Council may be interested in attending this meeting or receiving a brief on the permit.

OTHER REPORTS

Mayor Kennedy indicated that the Morgan Hill Community Health Foundation held a meeting Monday evening. He noted that the Council will be discussing an item relating to an assisted care facility later on this agenda. He reported that the Daughters of Charity have made good progress with the former St. Louise Hospital and medical office building. He stated that there are now five doctors who are practicing in the medical office building, including a cardiologist, an internist, and a neurosurgeon. Also, Fritter & Shultz Physical Therapy is due to open in approximately two weeks. He said that the Daughters of Charity plan to open what was once the emergency room facility as an urgent care facility that will include an MRI, CT scan and imaging, and laboratory facilities. Their long term plans are to reopen the surgery suites for ambulatory surgery. He stated that he and Mayor Pro Tempore Sellers were encouraged by the progress that the Daughters of Charity have made in getting the facility open. He indicated that the Council has worked hard to preserve the facility for medical services and encouraged the community to support the doctors and medical services that have located in the facility.

City Council Action

PUBLIC HEARINGS:

14. ZONING AMENDMENT, ZA-04-07: DIGITAL-VENTURE PROFESSIONAL CENTER.

Planning Manager Rowe presented the staff report, indicating that this application was scheduled to be considered by the Planning Commission at their July 13 meeting. However, the applicant requested that the Commission's review of the application be continued to July 27 in order to give them time to review the traffic analysis. He indicated that the applicant had some questions about the traffic analysis and adjustments to some of the assumptions of the traffic report and potential traffic impact mitigation measures. As this item has been continued to the Planning Commission's July 27 meeting, staff recommended that the Council continue the public hearing to its July 28 meeting.

Mayor Pro Tempore Sellers inquired whether there was enough time to resolve the issues between the Planning Commission meeting and the City Council meeting for the applicant to adequately prepare and evaluate the traffic analysis.

Planning Manager Rowe said that although the meetings are back to back, staff will present an oral report to the City Council with the recommended action of the Planning Commission. If there is a need to amend the documents based on the Commission's decision, staff would report them to the Council at the July 28 meeting.

Mayor Kennedy opened the public hearing. No comments were offered.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Continued** the Public Hearing to the meeting of July 28, 2004.*

Mayor Kennedy indicated that there has been a request to consider item 17 at this time.

Action: *It was the consensus of the City Council to consider item 17 at this time.*

17. ASSESSMENT OF HAZARDOUS VEGETATION MANAGEMENT PROGRAM CHARGES – Resolution No. 5834

Mayor Kennedy noted that this item has been broken up into four sections.

Council Member Chang indicated that she has a conflict with action item 17a and therefore would recuse herself from this item. She excused herself from the Council Chambers.

Assistant to the City Manager Dile presented the staff report relating to the final step in the 2004 hazardous vegetation program. She recommended that the Council approve the final report from the County Fire Marshal's office which identifies all properties that have had weed abatement work performed by the County's contractor. She indicated that the adoption of the resolution would enable the charges associated with the weed abatement work to be placed on the tax assessment this fall.

Mayor Kennedy opened the public hearing.

Ike Rosenpor indicated that he received a letter from the City of Morgan Hill stating that he has not cut the grass on his property located on Warren Avenue, and that he would be charged for this service via his property tax. He indicated that he bought the property 26 years ago. Prior to purchasing the property, he came to the City and inquired as to the status of the construction of Santa Teresa Boulevard which was proposed to go through his property. City staff advised him that within the next five years Santa Teresa Boulevard would be constructed. He indicated that the property was zoned commercial. After 3-4 years, the City changed the zoning, noting that five years have gone by without the construction of Santa Teresa Boulevard. He indicated that he has visited City Hall many times and sent several letters and that his attorney has even sent letters to the City. He said that his attorney and he have been ignored. He has not been advised by the City how the lot can be developed. He stated that all he is doing with his property is paying property taxes. He requested that he be advised what he is supposed to do with the lot and be given permission to build on the lot, or subdivide the portion of land that Santa Teresa would go through.

No further comments being offered, the public hearing was closed.

City Attorney Leichter indicated that she is familiar with Mr. Rosenpor's situation. She said that she would be happy to contact him. It was her belief that his comments related to whether or not his property would be taken in order to build Santa Teresa Boulevard and not to the actual weed and vegetation abatement control. If the Council would like the recitation of the abatement control, the Fire

Marshal's Office is prepared to do so. With regard to the other matters, she indicated that staff would meet with the property owner to see if the City can give him an answer.

Mayor Kennedy agreed that it sounds as though Mr. Rosenpor's is an issue of property ownership and the status of the property (e.g., what the property can be used for) rather than the weed abatement issue that this hearing is about. He informed Mr. Rosenpor that the Council will ask the City Attorney to meet with him.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent, **Confirmed** Section A of the Final Report on the 2004 Hazardous Vegetation Program.*

Mayor Kennedy stated that he has a conflict with item 17b as he resides within 500 feet of the action. Therefore, he would step down from this action item.

Council Member Chang resumed her seat on the Dias.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Confirmed** Section B of the Final Report on the 2004 Hazardous Vegetation Program.*

Mayor Kennedy resumed his seat on the Dias.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Confirmed** Section C of the Final Report on the 2004 Hazardous Vegetation Program.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5834, ordering that the Final Report on the 2004 Hazardous Vegetation Program be transmitted to the County Assessor's Office and that liens be posted against the properties on the report.*

15. ZONING AMENDMENT APPLICATION, ZA-04-02: COCHRANE-ASSISTED LIVING CENTER – Ordinance No. 1689, New Series

Planning Manager Rowe presented the staff report, indicating that the request is to amend the zoning of the St. Paul Health Center site to allow for two proposed facilities: 1) a 40-70 unit congregate care facility and a 94-unit assisted living facility; and 2) a child care center to be located at the corner of Mission View and Cochrane Road on the St. Louise portion of the site. He clarified that with the approval action, the Council would be approving two alternative scenarios relating to the childcare facility.

Mayor Pro Tempore Sellers inquired as to the desire to have a childcare facility at this location.

Planning Manager Rowe indicated that the congregate care facility would be utilized by retired, older residents who require a minimal amount of assistance. He said that it is felt that the ability to have this age group interact with young children would be beneficial for both groups. Also, it is proposed to have a childcare facility on site that would provide on site child care services for employees and would help to promote the site and to attract physicians. He indicated that the childcare facility would be used by the greater community.

Mayor Pro Tempore Sellers stated that based on staff's comments, a childcare facility should be encouraged. He said that the inclusion of a childcare facility signifies that the applicant has long term plans and will significantly expand the employee base.

Mayor Kennedy opened the public hearing.

Rick de la Cruz, speaking on behalf of the applicant, indicated his support of staff's recommendation. He stated that he was pleased to hear about the Daughters of Charity. He said that the hospital efforts would be expanded to include activities additional to what the Daughters of Charity have processed with the City in the past. He said that the Morgan Hill Assisted Living Partners are primarily made up of his firm, Eric Jacobson, and the Barry Swensen Group. He displayed a site plan and addressed the critical concepts that they are bringing to the site. He stated that the childcare is important to them and the community and addressed the reason he is requesting the two site options. He indicated that the first building to be built would be the assisted living facility, noting that the design would be reviewed by the City's Architectural Review Board next month. He informed the Council that he came to the City as a single project on a single parcel. Through the cooperative work with Joann Allen and her team, he was able to come up with a site plan where circulation, parking, and the ambience of landscaping, etc. are shared. This allows the property to work as one, minimizing any impacts to Mission View. He said that he can work on whichever plan the Council selects. He clarified that the childcare center would be developed on the Daughters of Charity property. He stated that both properties are a 24-hour, 7-day operation, and that he is developing a workforce of employees with families who will be working late at night. The daycare facility would provide support for children who have short illnesses, or families who need childcare over the evening. He indicated that his workforce is sensitive, and that they want to do everything possible to bring employees to Morgan Hill and keep them on staff. He said that the Daughters of Charity and the congregate care have the same point of view. Therefore, a good partnership has developed. He said that he, as an entity, has done a lot of research on dementia and Alzheimer. He stated that the Daughters of Charity have asked that he consider the possibility of building a skilled nursing facility. He indicated that skilled nursing facilities are complicated and difficult to build. However, should there be a strong market for a skilled nursing facility; he would have to work out all the issues with staff so that there would not be a delay in picking the correct mix of medical activities. He informed the Council that should everything go well, he plans to break ground in late fall or early winter, but no later than the first part of 2005.

No further comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Approved** the Mitigated Negative Declaration.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Waived** the Reading in full of Ordinance No. 1689, New Series.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1689, New Series, by title only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE PRECISE DEVELOPMENT PLAN FOR THE DE PAUL (FORMERLY SAINT LOUISE) HEALTH CENTER INCORPORATING UP TO A 70-UNIT CONGREGATE CARE FACILITY, 94 UNIT ASSISTED LIVING FACILITY, A 6,050 SQ. FT. CHILD CARE FACILITY AND A 13,560 SQ. FT. COMMERCIAL OFFICE BUILDING. (APNs 728-031-005, 006, 012 & 013)** by the following roll call vote: **AYES:** Carr, Chang, Kennedy, Sellers, Tate; **NOES:** None; **ABSTAIN:** None; **ABSENT:** None.*

16. PROTEST, PRO-04-03: ANNEXATION, ANX-03-01: HILL-GERA – Resolution No. 5833

Planning Manager Rowe presented the staff report, indicating that this item is a procedural matter for a City conducted annexation. He informed the Council that the applicant, Mr. Gera, does not have consent from all owners to annex the property. Therefore, established procedures require that the Council conduct a hearing for the purpose of setting a date for a public hearing to consider the protest. He recommended that the Council conduct the hearing and adopt the resolution of intent to hold a public hearing on the protest setting the date for the public hearing as August 18, 2004.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5833, Intent to Hold a Public Hearing on the “Protest Proceeding” at the Regular City Council Meeting of August 18, 2004.*

18. GENERAL PLAN AMENDMENT, GPA-04-06: CITY OF MORGAN HILL TEXT AMENDMENT FOR MEASURE C – Resolution No. 5835

Planning Manager Rowe presented the staff report, indicating that on March 4, 2004, the citizens of Morgan Hill approved Measure C. He stated that Measure C amended and extended the term of the City’s residential development control system through the year 2020. He said that in April 2004, the Council approved an ordinance which incorporated the initiative provisions. The ordinance included language which required that the City, within 120 days of the effective date of Measure C, review the general plan to ensure that all provisions within the general plan are internally consistent with the provisions of Measure C. He recommended the adoption of the resolution relating to the general plan text amendment for Measure C.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Adopted** Resolution No. 5835*

City Council Action

21. REPORT OF THE COUNCIL SUBCOMMITTEE ON THE LIBRARY PROJECT SELECTION (Continued from 6/23/04).

City Manager Tewes presented the staff report, indicating that earlier in the calendar year the Council established a goal that by the end of June 2004, the Council would adopt a feasible strategy for the construction of a library. The Council appointed a subcommittee comprising of Mayor Kennedy and Council Member Tate who met for several months, analyzing a number of options, narrowing them down, receiving public input and working with the Library Commission to analyze the proposals. On June 23, the library subcommittee made four recommendations to the Council: 1) that the Council select the downtown proposal (former Sunsweet site) for the new library and that the library project be a part of a comprehensive development of the site that would include retail uses, housing and parking. 2) A financing strategy. 3) The City Manager to evaluate an alternative project management model different from the traditional approach to perhaps find ways to save money during the construction process. He indicated that the Council authorized staff to begin this analysis on June 23, stating that staff was not prepared to present a report on this item this evening. 4) The City Manager and staff recommended initiating a long series of steps outlined in the staff report, and an implementation plan. The implementation plan suggests that the City begin negotiations with property owners.

City Manager Tewes clarified that the Council is not being asked to accept the proposal from the property owner but that it is being asked by the library subcommittee to adopt the site and to direct the subcommittee/staff to work out a number of issues. He stated that in the implementation plan, the Council directed that staff begin with two items: 1) analyze an alternative project model which staff is not ready to do this evening; and 2) perform the analysis that would lead to a potential increase in the development fee. He indicated that staff has concluded their analysis and that it is before the Council this evening. He said that it is being recommended that the City take the steps necessary to increase the development impact fees no matter which site is chosen for the library. He noted that Mayor Kennedy has made a recommendation to the Council that the decision on which of the two sites, as recommended by the subcommittee, be deferred until such time that there is an advisory vote of the people to be placed on the November 2, 2004 ballot. If it is the Council's desire to proceed, staff would alert the Council to the critical timelines with respect to a ballot measure. Should the Council decide this evening to proceed with an advisory measure, he said that staff must immediately proceed to prepare the actual language for such a measure and to bring back the authorizing documents at the next Council meeting of July 28, 2004 in order to meet election deadlines. After hearing from the community and discussing all matters, he requested that the Council provide staff direction on how to proceed with the library project.

Council Member Tate stated that the library subcommittee presented its report on the site selection for the library at the Council's June 23 meeting. He said that he has since reconsidered his recommendation

and that while he stands behind the report as accurately reflecting his opinion of where the library should go, he now recommends, pending any new information from the public input to be received this evening, that the Civic Center site best meets the wants and needs of the community for a desperately needed new library. It is his strong desire and request to the Council that it takes decisive action on this matter this evening and not delay it further. He stated that he would like the opportunity to elaborate on his reasons for this change when there is Council discussion.

Mayor Kennedy indicated that he has received tons of e-mails, voice mails, and personal contacts. He stated that he appreciates the input that has been provided as it has been very helpful and educational. He said that this has been a difficult struggle for the Council. He noted that the library commission has taken a position on it. The City hired a consultant a while back and the Council chose not to follow the consultant's recommendation for a site at a different location. He indicated that the library commission has supported the civic center site, and that one library commissioner has resigned over this issue. He felt there is one common thread that he has seen: individuals are generally in support of the library location going to the voter to allow them to make the decision. This is the reason for his recommendation to the Council. He said that both sites are good sites. The pros for the civic center are: 1) good opportunity for public art; 2) sister city plaza adjacent to the park/pond nearby; 3) space to grow; 4) it is city-owned land; 5) it is a tranquil site and has good pedestrian access. The pros for the downtown site are: 1) it is closer to the center and heart of the community and downtown; 2) close to businesses; 3) there are further opportunities for public art; 4) there would be good synergy with the Courthouse, transit center and various businesses in the downtown; and 5) good pedestrian access and central transportation access as well. He said that the most important thing about the library is that the Council wants it to be something that will benefit the entire community. He stated that it is disappointing to see that it has divided the community in many respects. It was his hope that the community can come back and work together to build a wonderful library. He said that either site would be an outstanding library facility for the community. He noted that he has made a recommendation that the Council place the site selection issue on the November 2004 ballot. It was his belief that the public is not a special interest group, and are the citizens who the Council is elected to represent. He felt that an issue like this is important to the community and that it was important for the community to have a say in the decision.

Mayor Pro Tempore Sellers wanted to assure the public that he has spent a lot of time over the past few weeks reviewing the many e-mails/information and other materials that he has received. He assured the public that he is up to speed on this matter along with the rest of the Council. Council Member Sellers also commented that he had requested to be the initial speaker on the item because he had not had a chance to weigh in on this issue.

Council Member Carr referred to the operational funding. He noted that the library parcel tax to extend funding that helps operate the library did not pass. Yet, the County will be giving the parcel tax a try again. He inquired whether at the end of this calendar year this tax will end.

Council Member Tate indicated that the library parcel tax will run out in June 2005. He said that the strategic thinking is that the County library did not do well passing a library parcel tax in March 2004. The County believes that it can become a ballot measure again in March 2005. However, it was felt that the extra three months would be needed. Therefore, June would be the last opportunity to keep a

continuous parcel tax and still have it pass. He stated that there is still an opportunity to not have a funding gap in the operations if the ballot measure passes in June 2005. He stated that State cuts have affected the operations of the library. He indicated that there are individuals who are retiring from the library system. Therefore, there are cut backs planned to take place, some as early as November 2004. It is not clear whether these cuts would affect the Morgan Hill library.

Mayor Kennedy opened the floor to public comment.

Barnum Lambert, a resident of Morgan Hill, Hamilton Square, complimented the community for the development of this subdivision. He stated that he got involved with the library site selection because some of his neighbors asked him his thoughts about moving the library. He stated that he sent an e-mail to the Council and Mayor Kennedy, receiving a couple of responses from Mayor Kennedy and Council Member Tate; both providing him information. He downloaded the library subcommittee report. He stated that he is a consulting engineer and that it was his opinion that a report such as the one prepared would not receive a contract as it lacked a determination of the differences between the two locations. The report made no responses to the third location mentioned. He felt that the actions recommended in the report are questionable and may be inconsistent with public policy. He stated that he visited both sites and that he does not see selecting/moving the library off the civic center site as the City owns the civic center property, it has a building that can be renovated and that a beautiful setting exists for the library already. He felt that the reasons given for moving to the downtown are speculative and highly suspect.

Marguerite Sinnett expressed concern that the City wants to decide the location for the new library without putting it out to a vote by the taxpayers on November 2, 2004. She indicated that many residents feel that while the downtown might need help, compromising the new library is too expensive a gamble with no guarantees that it will work. She indicated that residents are being told that a downtown two story library building would cost almost \$18.2 million with no expansion possibilities. She noted that the Council has not mentioned the elephant that no one wants to talk about; the cost of the land downtown that the taxpayers would need to purchase in 20-25 years at the prevailing market rate. She felt that the City would be purchasing 1.5 acres of land at a value that the landowner places at \$32 per square foot today, equating to \$2.1 million. In 20 years, at 15% annual appreciation, the taxpayers will be facing a huge debt of approximately \$34 million for land to accommodate an outdated library. If appreciation averages 20% per year, the cost of the land could be \$80 million and felt that this was fiscally irresponsible. She noted that the cost for the civic center site is approximately \$14.5 million and there would be land to add another 10,000 square feet of library space in the future. She felt that the only place to build a new library was at the civic center where citizens would have no future debt or surprises attached. She indicated that a survey shows that citizens prefer the civic center site 2-1. The Library Commission voted on June 7 in favor of the civic center site 6-0 with one abstention. She stated that the City Council has indicated that it may have to choose a site that does not meet citizen approval, while one Council member believes that only the special interests will be voting if placed on the November ballot in November. She informed the Council that this is a hotly contested presidential year and that most of the registered voters will be out voting, and not just the special interest individuals. She indicated that another Council member is not sure whether letting the voters decide is the best way to go and that he could not find anything appropriate to place the issue on the November ballot. She assured

the Council that voters are smart and believe that the November 2004 ballot is the only way to go and that Council delay would be transparent. She said that the voters and tax payers are intelligent and informed and can make the right decision. She did not believe that the library site should be decided by five members of the community, even if they are the City Council. She felt that the library issue must be placed on the November 2, 2004 ballot with the projection for the entire cost of a downtown library, including the land cost in 20 years. She requested that the Council allow the voters to decide whether they want to pay \$14.5 million for a library at the civic center or a library that is estimated to cost \$52.2 million in the downtown because of the added land cost in 20-years.

George Nale stated that it was his belief that the library belongs at the civic center; that the citizens want it to remain at the civic center; that the citizens of Morgan Hill have so stated this fact many times in many ways; and access, safety, cost and setting favors the civic center location. He said that the question this evening is what constituents would be represented this evening?

Blair Northwoo, a 10-year Morgan Hill resident, indicated that the first thing she did when she moved here was to visit the library and get a library card, using it ever since. She stated that she likes the library where it is, as it is in a quiet area, has a pretty location that is calm and reflective and has almost no traffic because it is in a residential area. She only recently heard about the planning of a new/larger library and moving. She remembers that a few years ago there was consideration of the location of the library as well. As she had not heard anymore, she felt that it was all settled and that the library would remain at the civic center site. She was surprised to hear that the Council was considering a downtown location. She has not heard any reasons stated against the current site as it can accommodate an expansion. She noted that the Library Commission recommended that the library remain at the civic center. She stated that she likes the downtown as she shops there. She indicated that when she goes shopping she would not visit the library in the downtown location and visa versa. She did not believe that the downtown was an appropriate location for the library. She expressed concern with the lack of parking, traffic and the inability to expand at the downtown site. She felt that it made a lot of sense to put the site location of the library to the vote of the people. This would give the Council an advisory on where voters expect to see their library and how the City's money is to be spent.

Karrt Haimowitz stated that he was pleased with what he is hearing this evening. He felt that the Council knows who were in attendance this evening, citizens in support of the civic center site. He expressed concern that there were individuals in the community who do not know who these individuals are. He indicated that there were three letters in the Morgan Hill Time this week from individuals in support of the downtown site. He felt that these letters contained misinformation about who the civic center supporters are, and contained misstatements. The letters stated that the civic center site supporters were a small vocal minority, individuals who reside in the neighborhood of the library and who want to keep the library in the neighborhood. He indicated that petitions have been circulated that contain over 1,000 signatures. Twenty percent of those who signed the petition reside in the neighborhood of the library while nearly 80% reside all over the Morgan Hill community. He indicated that he resides in south San Jose and felt that the Morgan Hill library is a better library than the Santa Teresa Library branch and so he uses the Morgan Hill library. He noted that the Council's polling showed that two-thirds of the citizens were in favor of the civic center site. He felt that the Council, in considering the downtown library site, has something in the way that prevents it from seeing what is in the best interest of the

citizens of Morgan Hill. He indicated that those in attendance this evening were the Council's constituents who use the civic center site.

Ed Nauss, a two-year Morgan Hill resident, stated that he has many close acquaintances and has worked closely with the Gilroy county library branch. Since coming to Morgan Hill, he has had the opportunity to contribute 300-400 books for sale to the Friends of the Library. When Measure B failed to pass, he made a check out for \$35 to the Friends of the Library and that this amount would continue year after year if a measure such as Measure B does not pass. When he is asked about his preference for the library site, a question that is not considered is whether the site is convenient. He is not concerned with personal convenience in getting to the library but is concerned about the welfare of the library and its ability to serve the citizens of the community. He indicated that the wildly popular answer was that the civic center site was the preferred site. He felt that to narrow the confines of the downtown location would be to cripple the library and its services and to eventually stunt its growth. He said that there is a strong current in favor of the Civic Center site. He stated that it would be remiss and irresponsible to pretend to a higher wisdom which appears to be not facing up to this and dismissing it in a cavalier fashion.

Cindy Webenbauer stated that she attended this evening's meeting because she was afraid that the Council would be leaning toward placing the library in the downtown. She was pleased to hear that Council Member Tate has had a change of heart because she felt that it would be a wrong move to place the library in the downtown. She indicated that she does not reside adjacent to the library. Her interest is that of a library user, a mother, a registered nurse and a taxpayer. She loves the civic center location as it is a beautiful location. She felt that the downtown location would only serve one purpose, serving the downtown. A downtown library would not serve the library or library users. She felt that it was wrong to locate the library in the downtown. Should the Council be opposed to the civic center, there may be an alternate site that would be acceptable to all. She stated her support of the civic center site.

Nancie Barker thanked Council Member Tate for his comments and his willingness to build a library at the civic center site. She indicated that many citizens are working individuals who are busy. She said that there has been a comment made that many individuals had nothing better to do than to go out and secure signatures on a petition, and she assured the Council that this was not the case. She noted that she had a petition that contained over 1,000 signatures and that there are still other petitions being circulated in the community. She stated that she obtained 250 of the signatures with very few of the signatures coming from her area. She indicated that most of the signatures she gathered came from the Farmers Market, the Friday night music or the Fourth of July celebration. The individuals she spoke with were from all over the community. She stated that more than 90% of the individuals with whom she spoke adamantly wanted to keep the library at its current location. She has been told the City has already spent \$250,000 on architecture fees for the civic center site and she would hate to see this fee wasted. She did not believe that there was any synergy between the library and the downtown. She asked citizens whether they would combine shopping and going to the library and the responses were that they would not. She felt that the city needs to move forward and build a library as it is desperately needed in the community. She expressed concern with ground contamination associated with the downtown site and requested that this concern be addressed. She stated that she would like to work with the Council toward a good library for this community. She would agree to work toward the passage of an equivalent of

Measure B. She stated that she would like to see the City move forward with building a library at the civic center area where the citizens would like to have it.

Bob Martin stated that he was in attendance at the request of the City's Economic Development Committee (EDC) and representing their interest. He stated that he was reinforcing their unanimous support for a downtown library. The support is given because a downtown library would stimulate economic development and would subsequently generate much needed sales tax dollars which would benefit all Morgan Hill citizens. He said that downtown libraries are fulfilling these economic development objectives throughout the country. He stated that many states are supporting and providing aid to communities building libraries in downtown areas, particularly in historic sites and in areas that eliminate blight. He said that it has been stated that to place the library in the downtown would be to ignore the wishes of the taxpayers and the citizens of Morgan Hill. He reminded the Council that the Morgan Hill Downtown Association, Chamber of Commerce and the EDS are in support of the downtown location, noting that each of these bodies represents thousands of taxpaying Morgan Hill citizens.

Charles Cameron indicated that he e-mailed the Council addressing the fact that staffing costs would be higher with the downtown library site. He requested that the financial information for the downtown site be addressed. He said that parking associated with a downtown library appears to be at 95-100 parking spaces. He did not see that there will be an increase in parking spaces should the library expand unless the City purchases property across Depot. Doing so would result in citizens crossing Depot to access the downtown library. He did not see that this was a positive aspect associated with a downtown library. He supported Mayor Kennedy's suggestion of placing the library site selection on the ballot, but that it would delay the decision of the library even further. This would result in costs going up between now and November. It was his belief that an additional \$400,000 in RDA funds has been allocated to other projects and that a few months of delay would result in additional funds disappearing. He felt that the Council has the information to make a decision. He requested that the Council make its decision this evening. If the Council really believes that downtown is the right place for the library and the vote goes for the civic center, the Council will be in a political box to try to make a decision that is contrary to what the voters are asking for. He felt that a far better solution for the downtown site would be a Trader Joes as there would be a lot more synergy associated with this business than there is with a library. He noted that Chuck Dillmann is suggesting that the Council consider other Monterey Road sites for much better visibility while others are suggesting that the Edmundson site would have more synergy than the downtown. However, he leaves these thoughts with the Council.

Stu Nuttall stated that he initially followed Council Member Tate's logic for a downtown library. When he talked about this possibility with his neighbors, he got shut down. This made him think about the issues. He indicated that he visited the downtown site and thought about a downtown library site. In his assessments, he felt that the downtown site is too busy to have children running around in it and that the price for the land is too high. He felt that the ambiance of the civic center is amazing and superior. He stated that the 60,000 Coyote Valley residents will be only a few miles away. He did not believe that the City of San Jose's planning would be conducted well with regard to libraries. He felt that gaining that much downtown access from a community that will be right up the way will be overwhelming and unsafe for the children.

Jon Hatakeyama stated his support of Council Member Tate's suggestion as it takes a lot of courage. He thanked Council Members Carr and Tate for the publicity given to the library's current campaign to sign up more children for library cards. He stated that his volunteer profile with the community has been consistent with helping children and public education; indicating that he founded the South Valley Morgan Hill Fishing Scholarship trip, funding scholarships for the past 12 years. The South Valley Wine Action sponsored by the South Valley Athletic Foundation supports the running programs of all middle schools and high schools, including Sobrato and has supplied four scholarships for the past five years. He stated that he considers the library to be an extension of public education. He indicated that libraries in schools sit empty becoming storage rooms, meeting rooms, lunch rooms and are no longer functioning as libraries. However, teachers still assign outside reading assignments. He said that parents cannot afford to buy books. He felt that the School District assumes that the community will have a functioning full service library to provide the books for students. He felt that the community and City needs to consider the needs of the library because public education is dependent upon it. When you look at the librarians who will provide this service, they are highly regarded. He said that there is a need, there is an organization, and the City needs to provide the proper facilities for the librarians. The City is planning to build a 40,000 square foot library projected for 50,000 individuals. He noted that the City is at a population of approximately 35,000, noting that the population has doubled from 10 years ago. In 15 years, Measure P will twilight. He said that there is a possibility of approximately 35,000 jobs and San Martin is in the process of incorporating as City, resulting in an increased population. He felt that a 40,000 square foot library will too small. At the civic center, the library can be enlarged where it could not be enlarged in the downtown location.

Leslie Miles indicated that she is president of the Downtown Association. She stated that in early February, her organization was asked to weigh in on a ballot measure in March with the focus being whether there should be a library in the downtown and how to participate. The Downtown Association voted as group to make an endorsement of supporting a community library. In April, the Downtown Association received plans drawn by a local developer, Rocke Garcia and were asked to review them. The Association has been given the direction to make sure that the Morgan Hill Downtown Task Force documentation and the directive is followed. The Task Force document was put together over a two year period by a large diverse group of community members that resulted in a number of particular focuses. One of the focuses was that Third Street would be a promenade that would involve retail and would be a vital center of the community. With the first set of plans, there was concern that the library would take up all of the retail area on 3rd street. It was the Association's direction to respond to the drawings. The Association gave the response that it wanted to maintain the development along 3rd Street in order to ensure retail. The focus of her organization is that when someone comes to them with a concern, question or endorsement, the Association evaluates the information received. She indicated that the Association evaluated the initial plans and that it felt that it did not meet the Task Force document. In turn, the Association requested that changes be made. The changes were made and, therefore, the Association felt that they could support the project in its concept. She stated that the Association supports the downtown location, in concept, as it meets the Task Force document. Personally, she felt that this is a matter of land use and not typically a voting procedure. The discussion usually involves consultants and individuals who have experience in looking at land use who can present an educated opinion. It was her understanding that the initial educated opinion was for the library to be built next to

the indoor recreation center. She raised her hand and stated that she was not sure that this was the right location for the library. She felt that the City needs to take some time as a community and determine whether the civic center site will be able to locate an expansion. She inquired whether the necessary analysis been done for the civic center site.

Chuck Dillmann felt that the library is too small at 28,000 square feet as it can barely support today's population. He noted that a 40,000 square foot library would be consistent with Measure C and would be fully utilized in 20 years. He felt that the Council's decision should be made in conjunction with the decision for the overall civic center needs and be integrated with that. He stated that more time is needed to make an informed decision and to consider alternatives. It should also consider fixing a blighted area which might generate additional funding. The new item of having an advisory election would be the worst of both worlds as it would delay things for 3-4 months. He felt that the 3-4 months could be spent by the reconstituted task force deciding what the optimum civic center plan is for the future. He noted that the election would cost money. He felt that the measure dealing with more funds for building libraries was moved from this ballot as it was full and that it was believed that no one would consider half of the measures on it. Therefore, it would not be a good time to have a key decision on the ballot. He did not believe that this was a decision that could be made by voters as it requires a detailed analysis of the issues.

Rocke Garcia indicated that he has been a resident of Morgan Hill for over 25 years. He thanked the City for inviting him into the process in January 2004 when he was asked by the Mayor to consider a library in the downtown. He clarified a few issues that were raised this evening so that the public can understand how his involvement came about. He reiterated that he was asked by the City to pursue a library in the downtown, spending thousands of dollars of his money in this pursuit, working through a library option for the Sunsweet site. He felt that the downtown site is the correct location for a library and that the downtown needs to continue its revitalization. Initially, he was told that the City has no money to be able to build a library and that he was asked how he could help the City. As a builder and developer in this town, he tries to address problems and tries to solve them. He agreed to place a long term lease on the land so that the City does not need to place cash dollars upfront. He said that the basic equality between the two land values is equal. A question asked at the time was what he could do to guarantee a 30,000 square foot library building. He presented a letter to the City guaranteeing that the public cost would be no more than \$300 per square feet (\$9 million) including construction management fees. He hired a well known architect, Phil Peoli based out of San Francisco, experienced in building over 20 libraries. He stated that the individuals he has brought on board, from engineers through architects, are number one in their professions. He felt that the design team needed to be well qualified if he were asked to take on this project. He understands the dilemma the City has with regards to the location of the library. It was his hope that the Council is able to listen to everyone. He stated that he understands that, had he lived close by or nearby the civic center location, he would want the library built here. It was his belief that there are other well informed individuals in the community who would like the library built at the downtown location. He stands ready to do what the City would like him to do.

Marby Lee addressed the "us versus them" attitude that has been raised by individuals in the paper and otherwise. She noted that it was stated that members of the community who are for the civic center library site are confrontational and angry. She confirmed that this group is angry because at the Council

meeting held three weeks ago several individuals stood up at the podium and talked about how they would like a civic center library. It was felt that these individuals were being disregarded and that this inspires passion in individuals. Following the Council meeting, a group of 10-12 citizens got together and decided to do something. She stated that citizens are passionate about the library staying at the civic center site. She stated that the group has worked hard over the past three weeks, indicating that the group has gathered over 1,000 signatures in favor of the civic center library site. At a previous Council meeting, an individual from the Morgan Hill Downtown Association talked about how difficult it was for businesses to gather signatures for a petition. She felt that having a business would be the best way to get signatures on a petition. She indicated that citizens with jobs and children got out to gather signatures, taking personal time away from work and family to tell people what was going on and explain why it was felt that the civic center was the best site for the library. It was her hope that the Council would vote in favor of the civic center library site.

Jeanne Gregg, Library Commissioner, indicated that 4.5 years ago, when she was appointed to the Library Commission, the Commission was trying to decide on the site for the library, and noted that this is what the city is still doing. She felt that the Council needs to make a decision and move on. She expressed concern in all of the discussion about the ambiance of this site or the noise of the downtown site, noting that the Council has not discussed the size of the library. She indicated that the reason that the Library Commission came up with the 28,000-30,000 square feet was due to the fact that this was all the City could afford. However, this square footage would not be adequate in the future. As a taxpayer, what she resents the most is when a bad decision is made that she ends up paying for it, such as the sewage plant that was built on clay and did not drain. When a decision is made for the library, the City needs to plan for a library that is much larger with additional parking available. She concurred with the comments as expressed by Mr. Dillmann. She requested that the passionate library supporters help work for the passage for the new Measure B so that the County can keep the new library open.

Wanda Brown indicated that she lives in the civic center neighborhood and owns property in the downtown, noting that it floods in the downtown area. She felt that the proposed downtown site may not be a good site. She did not believe that building anything by the railroad tracks is productive.

Renee Roberts stated that she was not in attendance to support a specific site but in support of the City Council. She thanked the Council members for their responses to her e-mails as they have been helpful to her and to the individuals she has been talking to. She stated that the main concern was that it was either the civic center site versus the Sunsweet site. She felt that the environment got hostile when there may have been misinformation gathered or no information provided. Should the Council vote tonight for a downtown library location, it may not be the Sunsweet site. She said that it sounds as though there is still a lot of negotiations that need to take place. She understands that this is a complicated issue with many factors. She felt that it would be great if the issues could be addressed with the downtown site. She stated that this is a complicated issue and that with all the research conducted by the City, she did not believe that the site location should be placed on the ballot as an advisory vote. It was her belief that the Council was receiving the input that it needs at this time and the placing the matter on the ballot will only delay the construction of the library. She recommended that the Council try to make a decision this evening and then move forward.

No further comments being offered, the public comment was closed.

Council Member Chang indicated that she has been given a lot of thought to this issue. She apologized to Mr. Garcia, stating that a while back she supported a downtown site for economic development purposes. She understood that Mr. Garcia had spent money on the library project. She stated that she has been talking to a lot of individuals about this issue. Should the City build a library, she felt that the City needs to own the land. She felt that the civic center site would allow construction of a library at an earlier date. Therefore, she would support Council Member Tate's recommendation. However, she felt that the City should reimburse Mr. Garcia for his expenses associated with a downtown library.

Council Member Tate clarified that he did not change "sides." He stated that he is on the side of Morgan Hill and that he will always be on the side of Morgan Hill. He acknowledged that the City is in need of a new library. On June 23, there was a groundswell reaction to what was stated by the Council that made a vast majority of the community get behind the civic center site, including circulation of a petition. He indicated that he received e-mails at a rate that he has never gotten from citizens before, too many that he could not respond to or answer them all individually. He knows that the civic center site works well and has the advantage of having more space. This advantage could work on some of the issues that were raised. He stated that he did not believe that the downtown is harmed in anyway should the library be built at the civic center. However, it was his belief that the city would miss an opportunity for the downtown, and he stands behind the report prepared in support of the downtown. He felt that the downtown would be a benefit to the library because it is located in a mainstream location and will have access by more users. It was his belief that a library in the downtown would increase the heart, soul, vitality, the community-feel and sense of community if built in the downtown and if supported by the citizens. He noted that the downtown site needs redevelopment. He stated that these were the reasons he supported the library being constructed in the downtown. He stated that he still prefers the downtown site, but that he could not keep supporting it as a recommendation. He said that not having a downtown library site does not economically harm the downtown. Having a library in the downtown would make it more vivacious, lively, etc. He agreed that you do not shop and then go to the library. Therefore, he did not believe that not building a library in the downtown would hurt the downtown economically. He indicated that there were other ways to invigorate the downtown and that it was his hope that everyone would help the Downtown Association, the Chamber of Commerce, etc., to try to implement ways to stimulate economic development and invigorate the downtown with the uses we would like to see in the downtown. When he made his arguments for the downtown, he did not believe that he articulated them in a way that convinced individuals of a downtown benefit.

Council Member Tate stated that he now understands the depth of the feeling regarding the library site; the total ownership and involvement of the community. He agreed that the involvement is across the entire community. He justified how the Council got here and explain it somewhat. He indicated that in January 2004, the Council opened up the site selection. He said that the last time the Council went through a site selection process; the Council did not have any locations in the downtown. Some possibilities emerged for a downtown library site. The council's reason for opening up the site selection was for the purpose of considering downtown sites. He said that there were 3-4 downtown sites to consider initially. The Council weeded out a couple: the Albertson shopping center site and the Britton Middle School site. The Council talked to the School District about the Britton Middle School site but

they believe they have to save it for their future use. The Council also looked at expanding the existing library as opposed to building a new library. He indicated that the Council found out that it would be more expensive to expand versus build a new library at the civic center. Therefore, the Council narrowed down the library site selection to the downtown site and the civic center site.

Council Member Tate indicated that at every Library Commission meeting held there were extensive conversation on these sites, noting that there was no one in attendance to participate in discussions. He said that the Council commenced a study process, indicating that it was publicized in the media. The Council authorized library commission studies and that no one seemed to care at that point. Individuals started to care on June 23 and began to mobilize, leading to today's meeting. He acknowledged that the Council conducted an informal poll and that 2/3 of the respondents stated that they preferred the civic center site. He said that this may seem as though it is an overwhelming number, but he found this to be encouraging for a downtown site. The results led him to believe that 1/3 of the citizens would be willing to look at change. He reiterated that he did not receive any input on the library site election until after June 23. He said that the Council has made the decision on its own where the indoor recreation center is to be sited, where the community center was built, and where the aquatics center was built. He noted that there was no public furor or uproar about the location of these facilities. It was his belief that this was something that was felt to be a Council decision. This factored in to his feeling that the library location is still a Council decision; one that he believes is best for Morgan Hill. He said that it was not until the ground swell and momentous eruption on June 23 that he started turning around. He stated that he was wrong as this is an issue that is near and dear to the citizens' heart. He said that should the Council ever conduct another library location study again, he would not pass it without receiving the full and complete input of the public. He would place a much higher priority and would conduct the scientific studies early on in the process.

Council Member Tate said that a lot of the e-mail was about one side versus the other side. Citizens were attacking the downtown and statements made about who would ever consider the downtown as being a feasible site. He felt that one needs to consider that there is another side to things. He said that there are factors found that lead individuals toward different conclusions. It was his belief that working toward consensus and community support for the project is important. He felt that you have to work with individuals with different opinions and give credence to them. He recommended that everyone work together and build the new library that everyone wants and not stay divided on the issue. It was his belief that it was time to move forward.

Council Member Tate indicated that the Council received input from citizens prior to the June 23 Council meeting and that the Council considered this input, especially from the Library Commission. He addressed the following issues:

- From the beginning the Council said that a two-story library is less efficient but that the County library staff has stated that they would be able to operate a two-story facility. He said that there is a notion that a downtown two-story building would be at a much higher cost.
- He stated that it has been the Council's assumption from the beginning is that it is an equal cost or within \$½ million. He indicated that Mr. Garcia explained the land cost, noting that he

offered the land deal such that the City would pay rent on the land for 25 years and then purchase the land as a way to defer payment. This offer was a way to help the City on its costs. He indicated that the Council found extra money and that should the Council choose to go with a downtown site, the City could negotiate to purchase the land. He stated that he reached the conclusion that should the Council decide on a downtown site, the City would need to buy the land up front.

- He noted that everyone believes that limited parking is still an issue, indicating that the Council found extra funds to address the parking issue. The funds would not only address the library parking issues but would provide additional parking for the downtown area as a whole.
- He said that there has been a lot of talk about safety and traffic in the general downtown area. He stated that there is a safety issue in the downtown with traffic at this time and that this problem has to be resolved now. It was his belief that the traffic problem would have been solved with the construction of a library in the downtown.
- He did not understand the comment that the downtown area was unsafe as it is adjacent to the railroad tracks. He noted that the City has a community center in the downtown. There are several merchants who are opened at night. Therefore, he did not believe that a safety problem exists. He did not understand how having a use adjacent to the railroad tracks would make the use unsafe.
- He felt that there were contradictory statements that the traffic is so congested that no one would ever go to the library. If no one would ever go to the library, how could there be congestion?
- Council Member indicated that the Council received a report that would start looking at the issues/address the issues such as traffic congestion and how the parking is to work, receiving a report at the end of October. He acknowledged that the Council has not solved all of the problems.
- Regarding the statement that this would be a much better site for Trader Joe's, he stated that the City has a partnership with the Chamber of Commerce. He indicated that the Chamber of Commerce has written over 5,000 postcards to Trader Joe's inviting them to locate in Morgan Hill. Trader Joe's has not made a final decision but indicate that they cannot count on the existing population.
- Distrust of the developer has been an issue. He said that this may be an issue but that the Council knows how to write contracts and agreements. These documents would be available to everyone and that everyone can review them.
- Regarding the statement that the property is ugly and an armpit tells him that the property needs to be developed.

- Noise mitigation measures would be implemented to address noise from the train.
- Expandability of the library is a requirement. Therefore, there was a place reserved in the preliminary design for the downtown site for expansion. He stated that he did not understand the complaints that a downtown library would not be expandable. If it were expandable, it was felt that there would not be enough parking. He stated that the City would construct additional parking in the downtown.

Council Member Tate felt that he had answers to all issues raised previously. However, he understands that the community does not want a library in the downtown site. He was disappointed with the comments made that citizens believe that there was some political agenda, shady deals, and/or monetary gain. He did not understand why it was believed that by threatening individuals you would get individuals to agree with your thinking. He did not believe that you can build consensus with threats. He said that polarized statements without recognizing that someone could have a different viewpoint were upsetting. He agreed that a new library is needed and that it will work well at the civic center site, noting that individuals overwhelmingly want it at the civic center site. He did not believe that the downtown would lose if the library is placed at the civic center site. He noted that the civic center site is in line with the City's proposition 14 application. However, the City is not hopeful that it will receive state funding. He said that there is a possibility of a bill authorized by Senator Dee Dee Alpert that stipulates that applicants who do not pass the round three funding for proposition 14 would be first in line for a new bond that may be placed on the March 2006 ballot. Therefore, keeping the application with the civic center site would help with the bill.

Council Member Tate stated that he supports the report that he and Mayor Kennedy wrote. However, he could not support not building a new library at the civic center site. He felt that it would further the division in the community. He felt that the library site selection has to be placed behind and move on. He stated that he strongly does not support placing an advisory measure on the ballot. He noted that there are three seats up for election in November 2004 and that there is no guarantee that any of the incumbents would not be replaced. Right now, the community has a council where five members are in support of a new library. He did not want to risk losing a council majority in favor of a new library. He indicated that the Council promised a decision to the public by the middle of the year, noting that it is now the middle of the year and a time to make a decision. If the Council was to take a vote, it will be well over two-third's that would vote in favor of the civic center site. He felt that there was educational information that can be provided in terms of showing the community how downtown libraries have affected other communities and it might change 2% or 3% of the vote. However, the Council would have to spend money to do so and that he did not believe that it would change the vote in support of the civic center site. He felt that the Council needs to make a decision to move forward with a library at this time. He indicated that the Council has made other projects number 1 priorities in the past (e.g., the community and cultural center, the aquatics center). He felt that it was time to make the library the number 1 priority and move forward with it. It was his belief that it would be indecisive not to move forward at this time.

Mayor Pro Tempore Sellers stated that there are a variety of ways to proceed. He said that it is rare for him not to attend a Council meeting, in six years, only missing 2-3 meetings. He did miss the June 23

Council meeting. He felt that the easiest thing to do was for him to see what direction the crowd is going, jump in front and take the lead. He said that the political thing to do would be to place the issue of the ballot this fall. However, he did not believe that either of these alternatives would necessarily be the right thing to do. He apologized to the public for the Council failing in one of its chief missions of developing a process whereby the Council makes decisions such that they are made as community. He stated that he often thought that the kinds of decisions that the Council make are only partly correct in what is derived. It is the way that the Council makes the decisions that is of most significance. If the Council makes the right decisions in the wrong way, the community will not be together and will develop acrimony and divisiveness. He did not believe that the community would understand why the Council made the decision that it made. He would like to develop a collaborative process, bringing individuals together to conduct the hard work of making decisions that are community decisions that are not based on “us against them.” He apologized to the community that the Council did not do its job as it should have been done. The Council did not bring people together, nor developed a process at the front end. He said that cards were placed at the library and other places in the downtown as an attempt to solicit community input. He felt that the Council needed to be more active than this and more forward thinking. He noted that the Council developed a significant process with the visioning process that included everybody. The Council brought the community together stating that individual’s input mattered. He felt that the Council needs to go back and develop the process.

Mayor Pro Tempore Sellers felt that the most significant issue that the Council needs to address is the entire civic center site. He did not know whether the City has done a good job in talking to the community and letting them know that the Council is not talking about rebuilding the existing library or adding on to the existing library. What is being discussed is moving to library to the opposite corner of the block, tucked up at Alkire and DeWitt. He said that the design for the library is beautiful at a cost of \$250,000 for the design. He felt that the City needs to deal with the entire site and how it is to evolve/develop. He stated that the entire civic center block is owned by the City and that it needs to be developed and considered by the City. He noted that the Council is looking at only one building, and moving it to one part of the site. It was his belief that a new city hall is needed sooner rather than later because the existing building is old and tired. However, he did not believe that there would be support from the community for a new city hall for obvious reasons. He stated that as responsible stewards of the civic trust for the next few years, the Council needs to consider the entire civic center site and not just the library site. An idea that has been suggested is to take the old library building and utilize it for public works staff. He felt that this makes sense because the City needs to bring public works staff together with the rest of the administrative staff. Organizationally, this is by far the smartest thing to do. He noted that this was not included in the petition, and that he suspects that it would have engendered some interesting results had it been included in the petitions. This is because you would be looking at adding more employees and public works equipment on a site that is surrounded by churches, schools and residencies. He noted that the City has not thought this issue through. He felt that it would be highly irresponsible to not give thought to where City hall should be. He agreed that the decision needs to be a much broader based decision, figuring the larger issue. He felt that a decision needs to be made quickly, indicating that he supported the civic center site in the past. He noted that the rules have changed and the issues have changed, thus the reason for reconsidering the location of the library. Had the City received state funding, this issue would have been decided. However, the City did not receive funding; therefore, the Council needed to reconsider significant things, not the least of which was funding.

Mayor Pro Tempore Sellers felt that the Council needs to: 1) develop processes that are much more collaborative and inclusive of the community; 2) figure out what will be done with city hall and all of the facilities, and not just what will be done with the library before making a final decision; 3) the Council has to identify the \$14.7 million funds specifically for the library. Also, setting aside \$3 million for the downtown improvements identified in the process; specifically, the Third Street area improvement and identification of additional parking. He noted that these improvements were identified in the Downtown Plan, they are appropriate redevelopment uses, and are items of extreme importance to the community. He agreed that a library is needed soon but that until the City figures out what it will do with the entire site and makes the appropriate planning decision in this regard, he did not believe that the City was doing the right thing by jumping on the band wagon based on public testimony. He recommended that the Council ask staff to go back and return with the best option for master planning the civic center site. He recommended that the Council set aside funding for the library so that the community knows that it has the money sitting there for a library. The Council needs to identify the balance of funds for the downtown improvements because this is a commitment made to the downtown.

Council Member Carr agreed that this is a difficult issue. He agreed with Council Member Tate that the Council has not had the opportunity to review all the emails received on this issue. He apologized for not getting back to all the citizens. He noted that staff copied the e-mails and that the Council has them before it. He also apologized for the misinformation provided or lack of information provided. He noted that Council Member Tate walked through all of the concerns and talked about the different ways to address these concerns. He agreed that both sites are good sites and that he does not see negatives on either one of the sites. He felt that either site will work and will provide a great library opportunity for Morgan Hill residents for years to come. However, he is basing this on some possible misinformation. He indicated that the Council has not investigated or answered these questions. He stated that he has consistently supported building a library as soon as possible, voting against funding other types of projects because he felt that the Council had to make a decision on the library to have it move forward as soon as possible. He voted to move forward with the site selection process on June 23 in order to start the investigation process, learn about all of the issues and identify the mitigations for the issues at either of the sites. He noted that the City has not done this yet. He too is concerned about the bigger aspect of the civic center. He indicated that the 50-year horizon for city hall is to move public works staff to the old library facility and construct a new library on the site. He did not know if this is the 50-year horizon for this block of land, indicating that he did not believe that the Council has discussed this enough. He appreciated the fact that Dr. Hatakeyama tied in libraries with education as this is one of the positions that he has had on this for a long time. He stated that one of the reasons that he wanted to open up this process in January was attributed to the fact that he has always been a strong supporter of trying to locate the new library on the Britton Middle School campus; either as a stand along library or in partnership with the School District. If the schools do not have the books and librarians needed today, he felt that a partnership with the School District at the middle school campus could be a great opportunity. It was his belief that a lot of the concerns about the downtown site could be mitigated. He felt that decisions are being based on poor information. He stated that he would like the Council to make good decisions based upon true and solid information. Regardless of what the information is, it may not change anyone's minds. It was his belief that the City needs to think about the entire site before moving forward with a \$14 million investment on a 50-year horizon on this site. Is this where the City wants all

the services to be in the future and for this neighborhood? It was his hope that the Council would be willing to have this dialogue this evening before casting a vote. He said that one of the reasons he did not vote to support carrying over the decision until this evening at the June 23 meeting was attributed to the fact that he wanted the Council to start the process of coming together behind a decision and rebuild the community in support of the position. He felt that the Council has done a great job of politically motivating individuals. It his hope that what he sees this evening is the new politics of Morgan Hill, where citizens get involved and spend time learning about issues and contacting their representatives and neighbors.

Mayor Kennedy thanked those in attendance for their comments and presentations this evening. He stated that citizen's comments, as well as Council Member Tate's comments and thoughts have been persuasive. He stated that he would throw his support behind the civic center site in order to move forward. He indicated that the Council has heard this discussion many times before. The Council has previously selected this site and reviewed many consultants report. He felt that it was time to make a decision as this site will work well. He stated that he would support Council Members Tate and Chang's position.

Action: *Council Member Tate made a motion, seconded by Council Member Chang, to move forward with the civic center site for the construction of a new library.*

Council Member Tate noted that the City does not earmark money for the master planning of the civic center. He inquired what assumptions can be made to being the planning process.

Council Member Carr noted that the Council found an additional \$7 million for the library which he felt was great. He indicated that he voted against funding other projects because it was his belief that there should be more money preserved for the library. He stated that Mayor Kennedy has talked about the next visioning process. The Council has discussed different items, including partnering with the School District. However, the Council has never talked about the future of the civic center. He felt that the Council needs to tie some of these things back together.

Mayor Kennedy indicated that over the years the Council talked a lot about the civic center and the need for a new city hall, including its location (e.g., downtown). He recommended that the City initiate a new vision or renew the vision for Morgan Hill. He noted that he did not receive much support when he suggested this. It was his hope that the Council can start the renewed vision process; looking at this very issue. He felt that it was time to move forward with the library as there is funding to do so. He recommended that the library and the indoor recreation center be completed as they are part of the vision. He noted that it has been stated that the library was one of the top 3 projects identified in the visioning process. He recommended that the Council move forward with the library and that the Council discuss where it wants city hall/civic center to be. This can be done in a collaborative process as was done in the visioning process. He did not believe that there was a reason to wait on the library to proceed with this vision.

Council Member Chang concurred with Mayor Kennedy's comments.

Mayor Pro Tempore Sellers stated that he will continue to push the discussion of figuring out what the City should do with the remaining facility. He did not believe that this was the appropriate way to plan. He felt that the Council still has a lot more work to do and that it needs to do a better job. He said that it was frustrating that it had to get to the point where individuals had to spend so much time and energy on their own time. He felt that the Council needs to do a better job in the future as it develops projects and brings people together, making this a collaborative process so that the City does not end up in a situation where well intentioned people are at odds with the decision. He stated that he would support the motion but felt that the Council needs to do a better job in the future in making decisions so that it does not waste people's time going through this process. Further, the Council needs to make clear to the public what other things need to take place.

Council Member Carr felt that it was important that the Council stay united/unanimous behind this issue so that it can move forward. He stated that he would support the motion as well, noting that either site would work well.

Vote: *The motion carried unanimously (5-0).*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Directed** Staff to Set August 18, 2004 as a Public Hearing for Consideration of Increased Library Development Impact Fees of \$750 for Single Family Units and \$614 for Multiple Family Units.*

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 10:02 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY